

§ 354.3

19 CFR Ch. III (4–1–15 Edition)

Presiding official means the person authorized to conduct hearings in administrative proceedings or to rule on any motion or make any determination under this part, who may be an Administrative Law Judge, a Hearing Commissioner, or such other person who is not under the supervision or control of the Assistant Secretary for Enforcement and Compliance, the Deputy Under Secretary for International Trade, the Chief Counsel for Trade Enforcement and Compliance, or a member of the APO Sanctions Board;

Proprietary information means information the disclosure of which the Secretary has decided is limited under 19 CFR part 351 including business or trade secrets; production costs; distribution costs; terms of sale; prices of individual sales, likely sales, or offers; names of customers, distributors, or suppliers; exact amounts of the gross net subsidies received and used by a person; names of particular persons from whom proprietary information was obtained; and any other business information the release of which to the public would cause substantial harm to the competitive position of the submitter;

Secretary means the Secretary of Commerce or a designee;

Segment of the proceeding means a portion of an antidumping or countervailing duty proceeding that is reviewable under section 516A of the Tariff Act of 1930, as amended.

Senior APO Specialist means the Department employee under the Director for Policy and Analysis who leads the APO Unit and is responsible for directing Enforcement and Compliance's handling of business proprietary information;

Under Secretary means the Under Secretary for International Trade or a designee.

[63 FR 24403, May 4, 1998]

§ 354.3 Sanctions.

(a) A person determined under this part to have violated an administrative protective order may be subjected to any or all of the following sanctions:

(1) Barring such person from appearing before the International Trade Administration to represent another for a designated time period from the date of

publication in the FEDERAL REGISTER of a notice that a violation has been determined to exist;

(2) Denying the person access to business proprietary information for a designated time period from the date of publication in the FEDERAL REGISTER of a notice that a violation has been determined to exist;

(3) Other appropriate administrative sanctions, including striking from the record any information or argument submitted by, or on behalf of, the violating party or the party represented by the violating party; terminating any proceeding then in progress; or revoking any order then in effect;

(4) Requiring the person to return material previously provided by the Secretary and all other materials containing the business proprietary information, such as briefs, notes, or charts based on any such information received under an administrative protective order; and

(5) Issuing a private letter of reprimand.

(b)(1) The firm of which a person determined to have violated an administrative protective order is a partner, associate or employee; any partner, associate, employer, or employee of such person; and any person represented by such person may be barred from appearing before the International Trade Administration for a designated time period from the date of publication in the FEDERAL REGISTER of notice that a violation has been determined to exist or may be subjected to the sanctions set forth in paragraph (a) of this section, as appropriate.

(2) Each person against whom sanctions are proposed under paragraph (b)(1) of this section is entitled to all the administrative rights set forth in this part separately and apart from rights provided to a person subject to sanctions under paragraph (a) of this section, including the right to a charging letter, right to representation, and right to a hearing, but subject to joinder or consolidation by a presiding official under § 354.12(b).

[53 FR 47920, Nov. 28, 1988, as amended at 63 FR 24404, May 4, 1998]